

DWS Unemployment Insurance Legislative Update—2011

The 2011 legislative session produced several amendments to Arkansas' UI law. Unless otherwise noted each amendment has an effective date of July 27, 2011.

ACA § 11-10-504 Maximum Benefits Payable The maximum benefits payable on a state claim decrease from twenty-six times the weekly benefit amount to twenty-five times the weekly benefit amount.

ACA § 11-10-507(5)(A) Qualifying Wages Wage credits needed to establish a valid claim increase from twenty-seven times the weekly benefit amount to thirty-five times the weekly benefit amount.

ACA § 11-10-507(5)(B) Requalifying Wages Wage credits needed to establish a valid subsequent benefit year claim increase from twenty-seven times the weekly benefit amount to thirty-five times the weekly benefit amount. Wages needed from work since filing the first claim increase from three times the weekly benefit amount to eight times the weekly benefit amount.

ACA § 11-10-502 Weekly Benefit Amount Starting July 1, 2012, the minimum weekly benefit amount will be frozen at \$81 and the maximum weekly benefit amount at \$451.

ACA § 11-10-509(a) Employees of Educational Institutions The amendment clarifies that the between terms/holidays ineligibility for employees of educational institutions does not apply to individuals on assignment as substitute teachers via a staffing agency. The amendment was effective April 1, 2011.

ACA § 11-10-514 Discharge for Misconduct—Regular Misconduct The 2009 amendment changing the discharge disqualification for regular misconduct from eight weeks of unemployment or eight weeks of work to thirty days of work was extended by two years in one act and indefinitely in another. At a minimum, the change will continue through June 30, 2013.

ACA § 11-10-514 Discharge for Misconduct—Gross Misconduct The discharge disqualification for dishonesty, drinking on the job, reporting for work while under the influence of intoxicants or willful violation of safety rules (sometimes referred to as gross misconduct) changes from ten weeks of employment to until the claimant earns insured wages in two quarters that total not less than thirty-five times the weekly benefit amount.

ACA § 11-10-514 Discharge for Misconduct—Drug Testing The discharge disqualification for failure of a DOT drug screen changes from ten weeks of employment and passes a DOT drug screen to until the claimant earns insured wages in two quarters that total not less than thirty-five times the weekly benefit amount and passes a DOT drug screen.

ACA § 11-10-515 Refusal of Offers and Referrals of Suitable Work The disqualification for refusing offers of and referrals to suitable work changes from eight weeks of unemployment or eight weeks of work to thirty days of work.

The disqualification for failing a pre-employment DOT drug screen or failing to appear for a DOT pre-employment drug screen changes from until the claimant passes a DOT drug screen to until the claimant earns insured wages in two quarters that total not less than thirty-five times the weekly benefit amount and passes a DOT drug screen.

ACA § 11-10-514 Discharge for Misconduct—Absenteeism The amendment eliminates the requirement that, *"the individual's attendance record for the twelve month period immediately preceding the discharge and the reasons for the absenteeism shall be taken into consideration for purposes of determining whether the absenteeism constitutes misconduct."* And adds the requirement that, *"the individual will be disqualified if the discharge was pursuant to the terms of a bona fide written attendance policy with progressive warnings, regardless of whether the policy is fault or no-fault policy."*

ACA § 11-10-514 Discharge for Misconduct—Violation of Behavioral Policies The amendment adds the following language to the misconduct provisions: *Misconduct includes violation of any behavioral policies of the employer as distinguished from deficiencies in meeting production standards or accomplishing job duties.*

ACA § 11-10-514 Discharge for Misconduct—Poor Performance The amendment provides that, *an individual shall not be deemed guilty of misconduct for poor performance in his or her job duties unless the employer can prove that the poor performance was intentional. An individual's repeated act of commission or omission or negligence, despite progressive discipline shall constitute sufficient proof of intentional poor performance.* The amendment also provides that, *an individual who refuses an alternate suitable job rather than being terminated for poor performance shall be disqualified.*

ACA § 11-10-521 Claims Filing—Notice to Last Employer The response time for the Notice to Last Employer (501.3) changes from seven calendar days to ten calendar days. It also requires DWS to develop an on-line notice system before January 1, 2012.

ACA § 11-10-706—Stabilization Tax The amendment extends the 0.25% stabilization tax set aside for the UI Administration Fund and the DWS Training Fund through June 30, 2015.

Unemployment Trust Fund Financing Act of 2011 The act creates authority to issue bonds to repay the federal advances used to pay regular UI benefits.

If you have any questions concerning any of the above amendments please call 501-682-3200.